



STATE OF NEW YORK

**UNEMPLOYMENT INSURANCE APPEAL BOARD**

PO Box 15126

Albany NY 12212-5126

**DECISION OF THE BOARD**

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Mailed and Filed: JULY 11, 2023

IN THE MATTER OF:

Appeal Board No. 629302

PRESENT: MARILYN P. O'MARA, MEMBER

In Appeal Board Nos. 629301 and 629302, the claimant appeals from the decisions of the Administrative Law Judge filed July 13, 2022, which sustained the initial determinations holding the claimant ineligible to receive benefits, effective January 10, 2022 through January 16, 2022, on the basis that the claimant failed to certify for the benefit period within the seven-day period for such certification; and holding the claimant ineligible to receive benefits, effective January 17, 2022 through April 24, 2022, on the basis that the claimant did not comply with registration requirements.

At the combined telephone conference hearing before the Administrative Law Judge, testimony was taken. There was an appearance by the claimant.

Our review of the record reveals that the case should be remanded to hold a hearing. At the hearing, the claimant testified that she was instructed by a representative of the Department of Labor that she should not certify until she received a determination that she was eligible for benefits. The Commissioner of Labor should be afforded an opportunity to respond to the claimant's contention. At the remand hearing, the Commissioner of Labor shall appear and present any testimony or evidence that may be responsive to the question of whether the claimant was instructed to refrain from certifying under her January 2022 claim. The Commissioner of Labor also shall present testimony and evidence with respect to whether the claimant

established a valid original claim in January 2022 or in April or May 2022.

The parties shall produce any determination or other correspondence regarding whether the claimant established a valid original claim in January 2022 and

any written instructions to the claimant with respect to certifying under this claim.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issues of failure to comply with certification requirements and failure to comply with registration requirements, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issues of failure to comply with certification requirements and failure to comply with registration requirements, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

MARILYN P. O'MARA, MEMBER